

### **REMARKS**

Claims 1-26 are pending in the present application. Claims 2, 4, 7, 9, 10, 12-19, 22, 26 stand rejected under 35 USC §102. Claims 1, 3, 5, 6, 8, 11, 20, 21, 23, 24, and 25 stand rejected under 35 USC §103. Claim 5 has been cancelled. Applicants have currently amended claims 1, 12, 20 to more particularly point out applicants' invention.

#### **Drawings**

Applicants respectfully disagree with the Examiner's characterization of the drawings. The drawings, figure 8 in particular, depict a radius on the outer surface and a flat inner surface. Nevertheless, applicants do not consider the flat inner surface crucial to the invention and have, therefore, cancelled claim 5. If there is any doubt as to the drawings one can easily look the text and the claims as originally found to see that applicants intend a curved surface on the front of the tool.

#### **35 USC §102/103**

Applicants claim a surgical tool for implantation of an electrode array. Shippert discloses a tool for implantation of a passive implant. Shippert would not be an effective tool for implantation of an electrode array. The plunger arrangement would damage a delicate electrode array and not allow space for the electrode array's cable. Applicants have further amended the independent claims providing that the exterior surface of the tool is curved and that the "the top portion and the bottom portion being movable with respect to each other to gently grip and hold the electrode array". The art of record does not disclose, singly or in combination the invention as presently claimed.

#### **Conclusion**

In view of the above, reconsideration and allowance of all claims are respectfully solicited. If for any reason the Examiner finds the application other than in condition for allowance, and the Examiner believes that a teleconference may be helpful, the Examiner is

invited to call the undersigned attorney at (818) 833-5055 to discuss the steps necessary for placing the application in condition for allowance.

The Commissioner is authorized to charge any additional fees, which may be required or credit overpayment to deposit account no. 50-0922. In particular, if this response is not timely filed, then the Commissioner is authorized to treat this response as including a petition to extend the time period pursuant to 37 CFR 1.136 (a) requesting an extension of time of the number of months necessary to make this response timely filed and the petition fee due in connection therewith may be charged to deposit account no. 50-0922.

Respectfully submitted,

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